IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 362 OF 2004

M/s.Panchshil Hotels Ltd. .. Petitioner

versus

Chief Engineer(PZ) Pune Zone

and others .. Respondents

...

Mr.A.V. Anturkar for the petitioner.

Ms.A.R.S. baxi for respondent nos.1 to 3.

CORAM : D.G. KARNIK, J

DATED : 16th August 2006.

P.C.:

1. This Contempt Petition is filed alleging breach of the order dated 9th July 2004 passed by a Division Bench of this Court.

2. By the said order dated 9th July 2004, the Division Bench directed the Chief Engineer, MSEB, Pune

Division, to decide the issue regarding settlement of the bills within 30 days. Accordingly, the Chief Engineer by his order dated 16th August 2004 decided the matter. Instead of challenging the order of the Chief Engineer on merits by a substantive proceedings, the petitioner has filed this contempt petition alleging that the decision of the Chief Engineer is not in accordance with the directions issued by the Division Bench. Prima facie, I am not satisfied that the order of the Chief Engineer is in breach of the order passed by the Division Bench. The Division Bench directed him to decide an issue and he decided it. If there was any error in the said decision, it was open to the petitioner to challenge the order by filing a substantive petition against the order. This was not done. The petitioner cannot in a Contempt Petition collaterally allege that the order is not correct and the Chief Engineer has not decided the issue in accordance with the order of the Division Bench.

3. Faced with this difficulty, Mr.Anturkar, counsel for the petitioner seeks leave to withdraw the Contempt Petition with liberty to challenge the order dated 16th August 2004 passed by Chief Engineer. This he may do subject to satisfying the Court about the

delay and latches.

4. Contempt Petition is allowed to be withdrawn with liberty as above. Ad-interim order passed by this Court on 1st October 2004 not to disconnect the electric supply of the petitioner shall continue for a period of one week. i.e. till 22nd August 2006.

5. Authenticated copy is allowed.

(D.G. KARNIK, J)